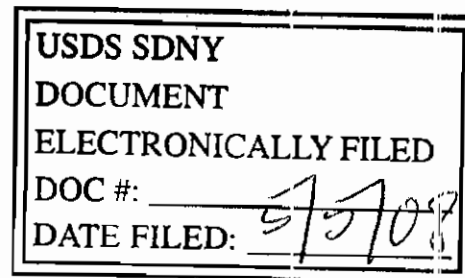


Direct line: 617 338 2910  
[bpollack@sandw.com](mailto:bpollack@sandw.com)

May 5, 2008



**By Facsimile**

Hon. Harold Baer, Jr.  
United States District Court Judge  
United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: Lockwood and Algonquin Capital Management, LLC v. Maceda,  
No. 07-CV-7524 (HB)

Dear Judge Baer:

At the Court's direction, the parties to the above-referenced action jointly request that the Court schedule a teleconference on May 8, 2008, to address the Court's denial of the parties' May 1, 2008 request for a 45-day stay of the proceedings. In the alternative to the stay, subject to the Court's approval, the parties have agreed that the return date on the pending summary judgment motions can be moved for 30 days. The parties recognize that, by doing so, there may not be a decision on the cross-motions substantially in advance of trial. Such an extension of the return date would not affect the trial date in this matter.

The parties request a teleconference to discuss the following specific issues, which support their request for a 45-day stay of the proceedings:

- (1) on March 28, 2008, the Hon. Kevin P. Castel ordered mediation of a related action between Plaintiff Algonquin and Defendant Maceda, styled as *Algonquin Capital Management, LLC v. Joseph Maceda*, No. 1:07-cv-07522. The Court's Mediation Office has advised the parties that mediation will be scheduled in late May or early June;
- (2) the parties have made progress and are optimistic that a settlement of this dispute will be achieved at the court-ordered mediation in June; and
- (3) absent a stay in these proceedings, the parties will incur significant attorney's fees in connection with briefing on the parties' respective motions for summary judgment, for which the return date is May 15, 2008, pursuant to the Court's current Scheduling Order.

The parties have agreed that they will be available to participate in a teleconference on Thursday, May 8, 2008. Thank you for your consideration of this request.

Respectfully submitted,

Barry S. Pollack

Barry S. Pollack

BSP:ljh

This is the same message I received in last week's letter & my response is almost the same in this thought so long as you realize we will be going to trial in November you are welcome to do whatever you choose. Keep in mind one that we go to trial w/o a decision on my dispositive motion not fully briefed & on my desk 60 days before November 1, 08. Good to talk can man & just it must be in AM

SO ORDERED:

Harold Baer, Jr., U.S.D.J.

Date:

5/5/08

Endorsement :

This is the same message I received in last week's letter and my response is almost the same with this thought so long as you realize we will be going to trial in November you are welcome to do whatever you choose. Keep in mind only that we go to trial with or without a decision on any disputed motion not fully briefed and on my desk 60 days before November 1, 2008. Glad to talk on May 8 but it must be in the A.M.